

H-3103-1 - FEES, RENTALS, AND ROYALTY

KeywordsVI. Leases Affected by KGS/FPGP DeterminationsA. General

Prior to the Reform Act of December 22, 1987, leasing and rental rates were based on determinations of whether lands were within a KGS outside of Alaska or FPGP within Alaska. Lands were required to be offered for competitive leasing if they were within a KGS or FPGP. If a lease issued noncompetitively for non-KGS lands, but at a later date any portion of the lands in the lease was determined to be included in a KGS, the rental rate for the noncompetitive lease was increased to the competitive rate on the next anniversary date following a 30-day notice to the lessee of the increased rental rate. The rental rate was increased for the entire lease even though only a portion of the lease may have been determined to be within the KGS.

LEASES AFFECTED
BY KGS/FPGP
DETERMINATIONS

30-DAY NOTICE
OF KGS/FPGP
RENT INCREASE

KGS/FPGP RENT
INCREASE APPLIES
TO ENTIRE LEASE
ACREAGE

Prior to the changes resulting from the Reform Act, for noncompetitive leases that had been reinstated under the Class II reinstatement provisions at the increased rental rate of \$5 per acre, the rental rate was increased an additional \$2 per acre (totalling \$7 per acre or fraction thereof) if the lease included any lands determined to be within a KGS prior to the reinstatement. If any of the lands within a noncompetitive lease that had been reinstated were later determined to be in a KGS or FPGP, the annual rental was increased an additional \$2 per acre or fraction thereof beginning with the first lease year following a 30-day notice to the lessee of the increased rental rate due to the KGS or FPGP determination. Following a revision or declassification of a KGS or FPGP, resulting in a lease no longer containing any such lands, the rental is to be reduced to the non-KGS/FPGP rate. The partial assignment of a portion of the lease, with such new lease containing no KGS/FPGP lands, also results in the rental being reduced to the non-KGS/FPGP rental rate.

KGS/FPGP RENT
INCREASES FOR
CLASS II-
REINSTATED
NONCOMPETITIVE
LEASES

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Keywords

Noncompetitive lease offers filed prior to the Reform Act of December 22, 1987, that are pending processing toward lease issuance must be reviewed to determine if any of the lands are within a KGS/FPGP. Such "grandfathered" offers must be rejected as to any lands in the offer determined to be within a KGS, even though the leases are issued after enactment of the Reform Act. Effective June 17, 1988, the leasing regulations at 43 CFR 3103.2-2(b)(2) provide that the rental rate of any lease determined after December 22, 1987, to be within a KGS or FPGP shall not be increased due to such determination. Furthermore, if the lessee was not notified of a rental increase to \$2 per acre before December 22, 1987, for a KGS determination that occurred prior to that date, the rental rate shall not be increased as a result of the KGS/FPGP determination. Notification shall be considered the date of the decision or notice issued by the BLM, not the date of receipt of such notice by the lessee. The rental rate for leases issued on or before December 22, 1987, and including KGS/FPGP lands shall be as stated in the lease terms, except for those leases not subject to the rental increase as discussed directly above.

KGS/FPGP REVIEW
FOR GRANDFATHERED
NONCOMPETITIVE
LEASE OFFERS

LEASES EXEMPT
FROM RENTAL
INCREASE FOR
KGS/FPGP
DETERMINATION
MADE AFTER THE
REFORM ACT